

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FABIAN ROSARIO and JOHN HARRIS,

Plaintiffs,

-against-

ELEVATION FRANCHISE VENTURES,
LLC, HANS HESS, and MICHAEL BERGER,

Defendant.

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NICHOLAS G. GARAUFIS, United States District Judge.

On June 2, 2014, Magistrate Judge Marilyn D. Go issued a Report and Recommendation ("R&R") recommending that the court dismiss this action sua sponte without prejudice for failure to effectuate service within the 120-day period provided in Federal Rule of Civil Procedure 4(m). (R&R (Dkt. 5).) Plaintiffs filed their Complaint on August 15, 2013, but have not yet served process on any Defendant.

No party has objected to Judge Go's R&R, and the time to do so has passed. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Therefore, the court reviews the R&R for clear error. See Gesualdi v. Mack Excavation & Trailer Serv., Inc., No. 09-CV-2502 (KAM) (JO), 2010 WL 985294, at *1 (E.D.N.Y. Mar. 15, 2010); La Torres v. Walker, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000). Finding no clear error, the court ADOPTS the R&R in its entirety, see Porter v. Potter, 219 F. App'x 112 (2d Cir. 2007), and Plaintiffs' Complaint therefore is DISMISSED without prejudice. The Clerk of Court is respectfully directed to close the case.

SO ORDERED.

Dated: Brooklyn, New York
July 1, 2014

s/Nicholas G. Garaufis
NICHOLAS G. GARAUFIS 0
United States District Judge